

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER FOR TEMPORARY STAY ON SURFACE WATER APPROPRIATIONS IN THE  
LOWER NIOBRARA NATURAL RESOURCES DISTRICT

On August 5, 2013, the Lower Niobrara Natural Resources District (LNNRD) pursuant to *Neb. Rev. Stat. § 46-707(2)* placed an immediate temporary stay for 180 days on the construction of any new water well and on any increase in the number of acres historically irrigated. The temporary stay applied to the areas contained within the boundaries of the LNNRD.

By letter dated October 28, 2013, the LNNRD requested the Department of Natural Resources (Department) to place an immediate temporary stay on the issuance of any new surface water appropriations.

*Nebraska Revised Statute* Section 2-32,115 authorizes the Department to place an immediate temporary stay without prior notice or hearing on the issuance of new surface water natural-flow appropriations for up to 180 days in any area included in a temporary stay determined necessary by a natural resources district in accordance with *Neb. Rev. Stat. § 46-707(2)*. The Department issued an Order on November 8, 2013, to initiate the temporary stay.

As required pursuant to *Neb. Rev. Stat. § 2-32,115(2)*, the Department held a public hearing in Butte, Nebraska, on January 15, 2014, to take testimony regarding the temporary stay. Notice of the hearing was given per the requirements of *Neb. Rev. Stat. § 46-743*.

The Department has reviewed the testimony from the public hearing and determined pursuant to *Neb. Rev. Stat. § 2-32,115(3)* to continue the stay until such time that an Order is issued and effective to implement the surface water controls contained in the Integrated Management Plan between the Lower Niobrara Natural Resources District and the Department.

It is therefore ORDERED:

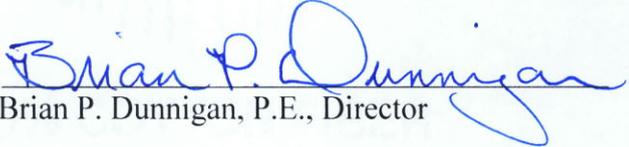
Effective January 31, 2014, the temporary stay currently in place on the issuance of any new surface water natural flow appropriations for areas contained within the boundaries of the LNNRD is continued.

The stay shall run until such time that the surface water controls contained in the Lower Niobrara Integrated Management Plan have been implemented through an effective Order of the Department.

New surface water natural flow appropriations that are necessary to alleviate an emergency situation involving the provision of water for human consumption, public health or safety are exempt from this stay.

DEPARTMENT OF NATURAL RESOURCES

January 31, 2014

  
Brian P. Dunnigan, P.E., Director

Any person with sufficient legal interest who has been or may be substantially affected by this Order may request a contested case hearing in accordance with the *Neb. Admin. Procedures Act* *Neb. Rev. Stat. §§ 84-901 et. seq.* and the Department's *Rules of Practice and Procedure Title 454 Admin. Code Chapter 7*. The request must be received by the Department at its Lincoln office (Nebraska State Office Building, 4<sup>th</sup> Floor, 301 Centennial Mall South, PO Box 94676, Lincoln, Nebraska 68509-4676) within 30 days of the date of this Order and be accompanied by a filing fee of \$10.

On January 31, 2014, a copy of this Order was posted on the Department's website and mailed to Terry Julesgard, General Manager, Lower Niobrara Natural Resources District, 410 Walnut Street, PO Box 350, Butte, NE 68722-0350 and the Department of Natural Resources field offices.